

House Bill 125

By: Representative Lindsey of the 54<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 33 of Title 36 of the Official Code of Georgia Annotated, relating to  
2 liability of municipal corporations for acts or omissions, so as to change provisions relative  
3 to ante litem notice; to change the period of time for presentation of written notice of claims  
4 involving damage to real property; to provide for a penalty where a claimant recovers in  
5 court an amount exceeding that offered in settlement in the case of damage to real property;  
6 to provide for related matters; to provide for an effective date and applicability; to repeal  
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 33 of Title 36 of the Official Code of Georgia Annotated, relating to liability of  
11 municipal corporations for acts or omissions, is amended by revising Code Section 36-33-5,  
12 relating to ante litem notice, as follows:

13 "36-33-5.

14 (a) No person, firm, or corporation having a claim for money damages against any  
15 municipal corporation on account of injuries to person or property shall bring any action  
16 against the municipal corporation for such injuries, without first giving notice as provided  
17 in subsection (b) of this Code section.

18 (b)(1) Except as provided in paragraph (2) of this subsection, within ~~Within~~ six months  
19 of the happening of the event upon which a claim against a municipal corporation is  
20 predicated, the person, firm, or corporation having the claim shall present the claim in  
21 writing to the governing authority of the municipal corporation for adjustment, stating the  
22 time, place, and extent of the injury, as nearly as practicable, and the negligence which  
23 caused the injury. No action shall be entertained by the courts against the municipal  
24 corporation until the cause of action therein has first been presented to the governing  
25 authority for adjustment.

(2) Where a claim involves damage to real property, the written claim shall be presented to the governing authority within 12 months after the happening of the event.

(c) Upon the presentation of such claim, the governing authority shall consider and act upon the claim within 30 days from the presentation; and the action of the governing authority, unless it results in the settlement thereof, shall in no sense be a bar to an action therefor in the courts.

(d) In the case of a claim involving damage to real property, where the adjustment by the governing authority fails to result in a settlement and the claimant recovers a judgment in excess of any amount offered in settlement, a penalty in the amount of 25 percent of the recovery shall be added to the judgment.

~~(d)~~(e) The running of the statute of limitations shall be suspended during the time that the demand for payment is pending before such authorities without action on their part."

## SECTION 2.

This Act shall become effective on July 1, 2009, and shall apply with respect to claims arising on or after that date. Prior claims shall continue to be governed by prior law, except that the time for presentation of a written claim involving damage to real property which arose on or after January 1, 2009, and prior to July 1, 2009, shall be extended to 12 months.

## SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.